

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| MIKE TURNER, On Behalf of Himself and All Others Similarly Situated, |) | Case No. 04-12294-PBS |
| |) | |
| Plaintiff, |) | Judge Saris |
| |) | |
| vs. |) | |
| |) | |
| |) | |
| ANDREW J. FILIPOWSKI, MICHAEL P. CULLINANE, PAUL L. HUMENANSKY, TOMMY BENNETT, JOHN COOPER, JAMES E. COWIE, MICHAEL H. FORSTER, ARTHUR W. HAHN, THOMAS J. MEREDITH, J. KEVIN NATER and JOHN RAU, |) | |
| |) | |
| Defendants. |) | |
| <hr/> |) | |

**FOURTH ASSENTED TO MOTION TO CONTINUE STATUS CONFERENCE AND
ADJOURN ORAL ARGUMENT ON PLAINTIFF'S MOTION TO REMAND**

Plaintiff Mike Turner, by his undersigned counsel, hereby moves this Court to (i) continue the status conference from November 3, 2005 to December 20, 2005 at 2:00 p.m. or until a later date selected by the Court; and (ii) adjourn the oral argument on plaintiff's Motion for Reconsideration of Remand (the "Motion to Remand") to December 20, 2005 at 2:00 p.m. or until a later date selected by the Court. As reasons therefor, plaintiff states:

1. On May 17, 2005, plaintiff Turner filed an Assented to Motion to Continue Status Conference and Adjourn Oral Argument on Plaintiff's Motion to Remand (the "Motion to Continue"), which sought to continue the scheduled status conference and hearing on plaintiff's Motion to Remand to July 19, 2005.

2. By electronic Order dated May 18, 2005, the Court granted the requested Motion to Continue and set oral argument on the Motion to Remand for July 19, 2005. By electronic Order dated May 13, 2005, this Court had also scheduled oral argument for the motion to dismiss filed in *Bobbitt v. Filipowski*, No. 1:04-cv-12263-(PBS), for July 19, 2005. On July 7, 2005 lead plaintiffs in the *Bobbitt* action again moved to adjourn oral argument until a later determined date. On July 11, 2005, this Court granted the *Bobbitt* motion, continuing the hearing on the motion to dismiss until September 22, 2005 at 3:00 p.m.

3. On July 11, 2005 plaintiff Turner filed his Second Assented to Motion to Continue Status Conference and Adjourn Oral Argument on Plaintiff's Motion to Remand (the "Second Motion to Continue"), which sought to continue the scheduled status conference and hearing on plaintiff's Motion to Remand to September 22, 2005. By electronic Order dated July 12, 2005, the Court granted the requested Second Motion to Continue and set oral argument on the Motion to Remand for September 22, 2005 at 3:00 p.m.

4. On August 11, 2005 lead plaintiffs in the *Bobbitt* action again moved to adjourn oral argument until a later determined date. By electronic Order dated August 15, 2005, the Court granted the *Bobbitt* motion, continuing the hearing on the motion to dismiss until November 3, 2005 at 2:00 p.m.

5. On September 12, 2005, plaintiff Turner filed his Third Assented to Motion to Continued Status Conference and Adjourn Oral Argument on Plaintiff's Motion to Remand (the "Third Motion to Continue"), which sought to continue the scheduled status conference and hearing on plaintiff's Motion to Remand to November 3, 2005. By electronic Order dated September 13, 2005, the Court granted the requested Third Motion to Continue and set oral argument on the Motion to Remand for November 3, 2005 at 2:00 p.m.

6. On June 29, 2005, the parties conducted a full day mediation with former United States District Judge Layn R. Phillips in an attempt to mediate the claims in this action. While the mediation was productive and great progress was made, the parties recognized that the mediation could not be completed in one day's time and a subsequent mediation session would be required. The parties have scheduled a second mediation with Judge Phillips for November 17, 2005. For this reason, the parties respectfully submit that it would once again be in all parties' interests to adjourn the status conference and hearing on the Motion to Remand so that the parties can devote their time, energy and resources to the complex negotiations that resolution of this matter will require.

7. The parties have conferred and all parties agree to this motion.

WHEREFORE, the parties respectfully request that this Court enter an Order to continue the status conference and to reschedule the oral argument scheduled for November 3, 2005 at 2:00 p.m. to December 20, 2005 at 2:00 p.m. or until a later date selected by the Court.

DATED: October 25, 2005

Respectfully Submitted,

ROBBINS UMEDA & FINK, LLP
MARC M. UMEDA

s/ Marc M. Umeda

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Counsel for Plaintiff Turner

RULE 7.1 CERTIFICATION

I, the undersigned counsel, represent that I have conferred with counsel of record in good faith with an eye towards resolving or narrowing the disputes in this matter. Defendants do not oppose this motion.

s/ Marc M. Umeda

Marc M. Umeda

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **FOURTH ASSENTED TO MOTION TO CONTINUE STATUS CONFERENCE AND ADJOURN ORAL ARGUMENT ON PLAINTIFF'S MOTION TO REMAND** has been served on the parties on the attached Service List, via U.S. First- Class Mail, postage prepaid, on this 25th day of October, 2005.

s/ Marc M. Umeda

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